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PART III.

Acts of the Governor General of India in Council, &c.

THE INDIAN TELEGRAPH BILL, 1875.

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A Bill to amend the law relating to Telegraphs in India.

Whereas it is expedient to amend the law relating to Telegraphs in India; It is hereby enacted as follows:— Preamble.

I.—Preliminary.

Short title.

1. This Act may be called "The Indian Telegraph Act, 1875."

It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty;

VIII of 1860, s. 20. Local extent.

Commencement.

And it shall come into force at once.

2. Act No. VIII of 1860 (*for regulating the establishment and management of Electric Telegraphs in India*) is hereby repealed.

Act VIII of 1860 repealed.

Saving of existing licenses and rules.

But all licenses granted, declarations made, and rules framed under the said Act or under Act No. XXXIV of 1854 and now in force, shall be deemed to have been respectively granted, made and framed under this Act.

Interpretation clause.

3. In this Act—

"Telegraph."

"Telegraph" means an Electric or Magnetic Telegraph:

"Telegraph Officer."

"Telegraph Officer" means any person employed either permanently or temporarily * in connection with a Telegraph established or maintained and worked by the Government or by a Company or person licensed under this Act; and

*e. g. Sounder-signallers.

"Message."

"Message" means any communication sent by Telegraph, or given to a Telegraph Officer to be sent by Telegraph or to be delivered.

II. *Privileges and Powers of Government.*

VIII of 1860, s. 2. Exclusive privilege of establishing Telegraphs.

4. Within British India, the Governor General in Council shall have the exclusive privilege of establishing lines of Telegraph:

Proviso as to licenses.

Provided that the Governor General in Council may grant a license to any person or Company to establish or to maintain a line of Telegraph within any part of British India, which license shall be revocable on the breach of any of the conditions therein contained.

VIII of 1860, s. 5. Power to take possession of Telegraphs established by license.

5. On the occurrence of any public emergency (as to which an order signed by a Secretary to the Government of India shall be conclusive evidence), the Governor General in Council may take temporary possession of any line of Telegraph established or maintained by any Company or person licensed under this Act.

VIII of 1860, s. 6. Power to establish Telegraphs on land of Railway Company.

6. Any Railway Company, on being required so to do by the Governor General in Council, shall permit the Government to establish upon the land of such Company adjoining the line of Railway, a line of Telegraph, and shall give every reasonable facility for establishing and using the same.

VIII of 1860, s. 7. Power to frame rules for the conduct of Government Telegraphs.

7. The Governor General in Council may from time to time frame rules consistent with this Act, for the conduct of Telegraphs heretofore or hereafter established by Government, and may therein prescribe the regulations, conditions and restrictions according to which all messages and signals shall be transmitted by such Telegraphs.

VIII of 1860, s. 22. Power to frame rules for Telegraphs established by licensees.

8. The Governor General in Council may from time to time, by Notification in the *Gazette of India*,

(*a.*) prescribe rules for the conduct of any Telegraph established or maintained by any Company or person licensed under this Act;

(*b.*) declare what portions of this Act shall be applicable to such Telegraph and to persons using the same, or employed in connexion therewith;

(*c.*) declare that this Act or such portions thereof as may be specified in the Notification shall be applicable to any Telegraph established or to be established within British India by any Foreign Prince or State with the consent of the Government of India, and to persons using such Telegraph or employed in connexion therewith.

and to declare Act applicable to Telegraphs established within British India, by Foreign powers.

All rules prescribed under this section shall have the force of law.

9. The Government of India shall not be responsible for any loss or damage which may occur in consequence of any Telegraph Officer failing to transmit with accuracy or to deliver any message given to him for transmission or delivery; and no such Officer shall be responsible for any such loss or damage, unless he causes the same negligently, maliciously, or fraudulently.

VIII of 1860, s. 8.
Government not responsible for loss or damage.

III.—Penalties.

10. Whoever otherwise than under a license duly granted as aforesaid establishes, or after revocation of such license maintains, a line of Telegraph within British India, shall be liable to a fine not exceeding one thousand rupees, and for every week during which such line shall be maintained shall be liable to a further fine not exceeding five hundred rupees.

VIII of 1860, s. 3.
Penalty for establishing or maintaining unlicensed Telegraphs.

11. Whoever, knowing or having reason to believe that a Telegraph has been established or is maintained in contravention of this Act, uses such Telegraph for the purpose of sending or receiving messages, or performs any service incidental thereto, shall for every such offence be liable to a fine not exceeding fifty rupees.

VIII of 1860, s. 4.
For using or working such Telegraphs.

12. Any Railway Company neglecting or refusing to comply with the provisions of section six shall be liable to a fine of *one thousand* rupees for every day during which such neglect or refusal continues.

For opposing establishment, &c., of Telegraphs on Railway land.

13. Whoever without permission enters the signal-room of a Telegraph Office of the Government, or of a Company or person licensed under this Act,

VIII of 1860, s. 9.
For intruding into signal-room, &c.

and whoever refuses to quit such room on being requested to do so by any officer or servant employed therein,

and whoever wilfully obstructs or impedes any such officer or servant in the performance of his duty, shall be liable to a fine not exceeding one hundred Rupees.

14. Whoever unlawfully cuts, breaks, throws down, destroys, injures or removes any battery, machinery, wire, cable, post or other thing whatsoever, being part of or used in or about any Telegraph or in the working thereof,

24 and 25, Vic, C. 97, s. 37.
For injuring Telegraphs.

and whoever unlawfully prevents or obstructs the sending, conveyance or delivery of any message,

VIII of 1860, s. 10.
For preventing the sending, &c., of messages.

shall be liable to imprisonment for a term which may extend to two years, or to fine, or to both.

15. Whenever any act causing or likely to cause wrongful damage to any Telegraph is repeatedly committed in any place, and it appears to the Director General of Telegraphs that the employment of an additional police force in such place is thereby rendered necessary, the Local Government may, on the application of the said Director General, send such additional force to such place, and employ the same therein so long as such necessity continues,

Act V of 1861, s. s. 14, 15.
Power to employ additional Police in places where mischief to Telegraphs is repeatedly committed.

and the inhabitants of such place shall be charged with the cost of such additional police force;

and the Magistrate of the District, after enquiry, if necessary, shall assess the portion in which such cost is to be paid by the said inhabitants according to his judgment of their respective means.

All monies payable under this Section shall be recoverable either under the warrant of a Magistrate by distress and sale of the goods of the defaulter within the local limits of such Magistrate's jurisdiction, or by suit in any competent Court, and shall be applied to the maintenance of the police force, or otherwise as the Governor General in Council may from time to time direct.

16. Any Telegraph Officer who wilfully secretes, makes away with, alters or omits to transmit any message which he may have received for transmission or delivery,

VIII of 1860, s. 11.
Penalty for omitting to transmit or deliver messages.

or wilfully or otherwise than by the official order of a Secretary to the Government of India or to the Local Government, or of such other officer as the Governor General in Council authorizes to give such order, intercepts any message or any part thereof,

For intercepting or divulging messages.

or divulges any message, or the purport of any message or of any part thereof, to any person not entitled to receive the same,

31 and 32, Vic, C. 110, s. 20.

or divulges the purport of any Telegraphic signal to any person not entitled to become acquainted with the same,

shall be liable to imprisonment for a term not exceeding two years, or to fine, or to both.

17. Every Telegraph Officer shall be deemed a public servant within the meaning of Sections 161, 162, 163, 164, and 165 of the Indian Penal Code. And in the definition of "legal remuneration" contained in the said Section 161 the word "Government" shall, for the purposes of this Act, be deemed to include a person or Company licensed under this Act.

VIII of 1860, s. 12.
XXXI of 1867 as to Railway Servants.
For offering a bribe to Telegraph Officers.

18. Any Telegraph Officer guilty of any act of drunkenness, carelessness, or other misconduct, whereby the transmission or delivery of any message is endangered, or who loiters or makes delay in the transmission or delivery of any message, shall be liable to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred rupees, or to both.

VIII of 1830, s. 13.
For misconduct.

19. Any Telegraph Officer who transmits by Telegraph any message upon which the prescribed charge has not been paid, intending thereby to defraud the Government, shall be liable to imprisonment for a term which may extend to three years, or to fine, or to both.

VIII of 1860, s. 14.
For sending messages without payment to Government.

20. Whoever transmits or causes to be transmitted by a Telegraph a message which he knows to be false or fabricated, shall be liable to imprisonment for a term which may extend to two years, or to fine, or to both.

VIII of 1830, s. 15.
For sending fabricated message.

21. Whoever fraudulently retains, or wilfully secretes, or makes away with, or keeps, or detains a message which ought to have been delivered to some other person,

XIV of 1866, s. 45.
For retaining messages, &c., delivered by mistake.

or being required by a Telegraph Officer to deliver up any such message, neglects or refuses to do so,

shall be liable to imprisonment for a term which may extend to two years, or to fine, or to both.

STATEMENT OF OBJECTS AND REASONS.

Doubts having been raised whether under the present Telegraph Act (VIII of 1860) rules can be framed for Telegraphs established under the repealed Act XXXIV of 1854, the present Bill has been prepared with the primary object of repealing and re-enacting Act VIII of 1860, with such change as will preclude all question as to the extent of the power above referred to.

The opportunity has been taken to make certain other alterations in the law, of which the chief are as follows:—

The present law declares that Railway Companies shall permit Government to establish Telegraphs on their land, but provides no penalty for refusing such permission; the Bill (Section 12) supplies this defect.

The section relating to injuries to Telegraphs has been made more specific, the wording of 24 and 25 Vic., cap. 97, Section 37, being here followed.

A clause founded on Sections 14 and 15 of the Police Act V of 1861 has been introduced to empower the Local Government to employ additional Police in places where mischief to Telegraphs is repeatedly committed, and to charge the inhabitants with the cost of the Police so employed.

The clause imposing penalties for sending fabricated messages has been made to apply to messages sent by Telegraphs established by a Company or person licensed under the proposed Act, as well as to messages sent by Government Telegraphs.

Fraudulently retaining or wilfully secreting telegraphic messages is made penal. An analogous clause is contained in the Post Office Act (XIV of 1866), Section 45.

Sections 16, 17, 18, 19 and 20 of Act VIII of 1860, which relate to fines and jurisdiction, have been omitted, as rendered unnecessary by Acts I of 1868 and X of 1872.

A. HOBHOUSE.

SIMLA,
The 5th July 1875.

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